

## **REMARKS**

### ***Status of the Claims***

Claims 194-252 are pending. Claims 194, 198-215, 217-220, 223, 237, 240-245, 249, and 252 are currently amended. Claim 216 is withdrawn. Claims 1-193 are cancelled. Support for the amendments may be found throughout the application as originally filed. *See, e.g.*, Specification, ¶ [0135].

### ***Claim Objections***

- A. Claim 194 is objected to since the term “receptor associated” should be hyphenated.

Claim 194 has been amended to hyphenate “receptor-associated.”

- B. Claim 194 is also objected to because part (ii)(b) should be amended to recite “specific binding of said another compound.”

As per the Examiner’s suggestion, claim 194 has been amended to recite “specific binding of said another compound.”

- C. Claims 198-215 and 217 are objected to because these claims should be amended to recite “of” instead of “contained in.”

As per the Examiner’s suggestion, claims 198-215 and 217-218 have been amended to recite “of” instead of “contained in.”

- D. Claim 207 is objected to over the recitation of “is a polypeptide is a fragment.”

Claim 207 has been amended to delete “is a polypeptide.”

- E. Claim 207 is also objected to since it recites “points to.”

Claim 207 has been amended to recite “binds to.”

- F. Claim 208 is objected to “compounded a fragment.”

Claim 208 has been amended to recite “is a fragment.”

- G. Claim 219 is objected to because it should recite “is expressed.”

As per the Examiner’s suggestion, claim 219 has been amended to recite “is expressed.”

- H. Claim 220 is objected over the phrase “comprised in a membrane extract.”

As per the Examiner’s suggestion, claim 220 has been amended to recite “present in.”

I. Claim 223 is objected over the phrase “comprised in a liquid bilayer.”

As per the Examiner’s suggestion, claim 223 has been amended to recite “present in a lipid bilayer.”

J. Claim 237 is objected to over the term “solid receptor.”

Claim 237 has been amended to recite “said receptor.”

K. Claim 241 is objected to over the phrase of “wherein to binding assay.”

Claim 241 has been amended to recite “wherein the binding assay.”

L. Claims 242 and 243 are objected to over the phrase “effect of said compound on the.”

As per the Examiner’s suggestion, claims 242 and 243 have been amended to delete “effect of said compound on the.”

M. Claim 244 is objected to over the phrase “assay under a cell.”

Claim 244 has been amended to recite “assay uses a cell.”

N. Claim 245 is objected to over the term “which.”

As per the Examiner’s suggestion, claim 245 has been amended to recite “wherein.”

O. Claim 249 is objected to since the term “high throughput” should be hyphenated.

Claim 249 has been amended to hyphenate “high-throughput.”

P. Claim 252 is objected to because it recites “(3),” but no “(1)” and “(2)” exists in the claim from which it depends.

Claim 252 has been amended to recite “(iii).” A “(i)” and “(2)” exist in claim 194, from which claim 252 depends.

In view of the foregoing, Applicants respectfully submit that the objections are moot.

***Claim Rejections - 35 U.S.C. §112, Second Paragraph***

Claims 206, 210 and 217 stand rejected as allegedly being indefinite because it is not clear what conditions constitute “stringent conditions.”

As per the Examiner’s suggestion, claims 206 and 218 have been amended to recite specific hybridization conditions. Claims 210 and 217 do not recite “stringent conditions” and thus have not been amended to recite specific hybridization conditions.

Claims 198-215 and 217 stand rejected as allegedly being indefinite over the phrase “contained in.”

Claims 198-215 and 217 have been amended to recite “of” instead of “contained in.”

In view of the foregoing, Applicants respectfully submit that the indefiniteness rejections are moot.

***Claim Rejections - 35 U.S.C. §§ 102(e) or 103(a)***

Claims 194-197 and 219-252 stand rejected under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Zucker et al. (U.S. Patent No. 7,402,400, hereinafter “the ‘400 patent”).

Applicants respectfully submit that the ‘400 patent is not prior art under 35 U.S.C. §§ 102(e) or 103(a).

Under 35 U.S.C. § 102(e)(1), a person shall be entitled to a patent unless the invention was described in “an application for patent, published under section 122(b), by another filed in the United States *before the invention by the applicant for patent.*” (emphasis added).

Application Ser. No. 09/927,315, filed August 10, 2001, which matured into the ‘400 patent, claims the benefit of Provisional Application Ser. No. 60/302,898, filed July 3, 2001. Accordingly, the earliest possible effective filing date of the ‘315 application is July 3, 2001.

The instant application, filed December 2, 2003, is a divisional application of Application Ser. No. 10/179,373, which claims priority to several non-provisional and provisional applications, the earliest of which is Provisional Application Ser. No. 60/300,434, filed on June 26, 2001—one week before the earliest possible effective filing date of the ‘315 application. Accordingly, Applicants respectfully submit the ‘400 patent is not prior art under 35 U.S.C. §§ 102(e)(1) or 103(a).

Applicants also submit the ‘434 application supports the claims. For example, the ‘434 application discloses heteromeric taste receptors comprised of at least two T1R receptors or polypeptides and co-expressing at least two T1R receptors or polypeptides.<sup>1</sup> The ‘434 application also discloses methods for identifying compounds that modulate sweet taste.<sup>2</sup>

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<sup>1</sup> See e.g., Specification, page 7, lines 7-13; page 16, lines 4-13; and claim 6.

<sup>2</sup> See e.g., Specification, page 5, lines 19-23; pages 43-45; and claims 39-42.

### ***Double Patenting***

Claims 194-215 and 217-252 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-114 of U.S. Patent 6,955,887 (09/897,427), claims 1-37 of U.S. Patent No. 7,297,772 (10/725,037); claims 1-65 U.S. Patent No. 7,297,543 (10/725,103), claims 1-41 of U.S. Patent No. 7,344,859 (10/725,472) and claims 1-66 of U.S. Patent 7,294,474 (10/725,475).

Applicants submit herewith terminal disclaimers over the recited patents. Accordingly, these rejections are moot.

Claims 194-215 and 217-252 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 100-193 of copending Application No. 12/185,392, claims 44-88 of copending Application No. 11/932,949, claims 44-88 of copending application 11/932,493, claims 303-328 of copending application 11/797,156, claims 68-96 of copending application 11/583,097, claims 23 and 24 of copending application 10/569,870 and claims 21, 27, 28, 29, and 31 of copending application 11/395,375.<sup>3</sup>

Applicants note that these copending applications were filed after the instant application. According to the M.P.E.P. § 804, “[i]f a ‘provisional’ nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.” Therefore, if the only remaining rejections after this response are the ODP rejections and these copending applications are rejected on other grounds, Applicants respectfully request that the ODP rejections be withdrawn.

In view of the foregoing, Applicants respectfully request withdrawal of the provisional double patenting rejections.

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<sup>3</sup> Applicants note that the following applications are abandoned: 11/932,949, 11/932,493, and 11/395,375. Accordingly, at least these rejections should be withdrawn.

**CONCLUSION**

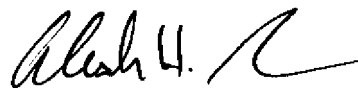
In view of the above remarks, early notification of a favorable consideration is respectfully requested. An indication of allowance of all claims is respectfully requested.

Respectfully submitted,

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Dated: November 17, 2009

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